IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.8923 of 2004

Smt.Sangita @ Darshana
Dattatraya Jadhav — Petitioner

Vs.

District Supply Officer, Thane
and ors. — Respondents

Mr.A.M.Kulkarni for petitioner.

Mr.Vinay Sonpal, AGP for State.

CORAM: B.H.MARLAPALLE & NARESH H.PATIL,JJ.

September 12, 2006.

P.C.

1. A proclamation was published on 15th March 2001 for granting licence to run a fairprice shop in Waveghar in Kalyan Taluka, Dist.Thane, which is basically a tribal village and in response thereto only two applications were received i.e. the present respondent no.2 and one Shri Sukhdeo Ganpat Jadhav. The District Deputy Supply Officer processed both the applications and subsequently learnt from the second applicant i.e. Shri Sukhdeo Ganpat Jadhav that he came to be employed under the State Government and, therefore, his claim was deleted. Consequently it

was only the respondent no.2 whose application remained and the same was granted on 20/4/2002. Thus for the last more than four years the respondent no.2 has been running the fairprice shop.

2. The present petitioner claims to have applied in response to proclamation which was issued in April 1999 and at that time no action was taken in respect of the applications which were received. The petitioner did not apply in response to the proclamation issued on 15/3/2001 but challenged the allotment made in favour of the respondent no.2 on 20/4/2002.

3. Instead of filing an appeal to the Deputy Commissioner (Supplies) as provided against the order issued under the Essential Commodities Act, 1955, the petitioner preferred to approach the State Government by filing revision application which came to be listed as Revision Application No.1102/706. The Minister for State - Food, Civil Supplies and Consumer Protection, Government of Maharashtra was pleased to reject the said revision application vide his judgment and order dated 9th July 2004 and hence this petition.

4. As noted earlier, the petitioner was not one of the applicants in response to the proclamation published on 15th March 2001 and, therefore, she has no locus to challenge the allotment in favour of respondent no.2 even though there was no resolution of the Gram Sabha passed in support of the application of respondent no.2. Both the authorities below have considered this issue and recorded a concurrent finding that in the absence of her application in response to the proclamation dated 15/3/2001 she could not challenge the allotment in favour of the respondent no.2. This view taken by both the authorities below cannot be termed as perverse or grossly erroneous so as to call for interference in our supervisory jurisdiction under Articles 226 and 227 of the Constitution, more so when the respondent no.2 has been running the fairprice shop for the last about four years or so. In case the respondent no.2 is not running the fairprice shop personally as at present, the petitioner is at liberty to lodge a complaint with the District Deputy Supply Officer or the Deputy Commissioner (Supplies) who shall in turn take appropriate steps as per the Food Supplies Order.

5. The petition is rejected summarily, save and except the above directions.

(NARESH H. PATIL,J.) (B.H.MARLAPALLE,J.)